

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

FILED - GR

August 16, 2022 4:30 PM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY:JMW SCANNED BY: JK 18-16**UNITED STATES DISTRICT COURT**

for the

Western District of MichiganSouthern Division**1:22-cv-748****Paul L. Maloney****United States District Judge**

Case No. _____

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☒ Yes ☐ NoLane Myers

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Christopher WrenNicholas Smith Sgt. Freriks

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Lane Myers

Address

1583 Grange Rd

Trenton

City

Mi

State

4883

Zip Code

County

Wayne

Telephone Number

313 587-1880

E-Mail Address

meyerlansky879@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Nicholas Smith

Job or Title (if known)

Director, Parks and Recreation

Address

4684 Evergreen Drive

Newaygo

City

mi

State

49337

Zip Code

County

Newaygo

Telephone Number

231 689-7340

E-Mail Address (if known)

nicks@co.newaygo.mi.us

☐

Individual capacity

☒

Official capacity

Defendant No. 2

Name

Christopher Wren

Job or Title (if known)

Newaygo County Administrator

Address

1087 Newell St, PO Box 885

White Cloud

City

Michigan

State

49349

Zip Code

County

Newaygo

Telephone Number

(231) 689-7200

E-Mail Address (if known)

ChrisW@co.newaygo.mi.us

☐

Individual capacity

☒

Official capacity

Defendant No. 3

Name

Job or Title (if known)

Address

County

Telephone Number

E-Mail Address (if known)

Sgt. Freriks

Sgt. Newaygo County Sheriff Department

1035 E. James Street PO Box 845

White cloud

City

Michigan

State

49349

Zip Code

Newaygo

231 689-7303

☐ Individual capacity☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Address

County

Telephone Number

E-Mail Address (if known)

City

State

Zip Code

☐ Individual capacity☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

see attached

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

II. Basis for Jurisdiction

B.

- 1) 14th Amendment - procedural due process violation of my liberty interest in free expression
- 2) 1st Amendment - substantive violation of my rights to free speech, assembly, and access to public lands
- 3) 4th and 5th Amendment - substantive violation of my right to privacy from governmental intrusion

D. Section 1983 – Actors of State

1. Nick Smith - Director of Newaygo County Parks and Recreation

Nick Smith is the Director of Newaygo County Parks and Recreation. In that position, he is acting under color of state and/or local law that enables him to enforce the rules of Newaygo County Parks. Nick Smith banned me from Newaygo County Parks under Newaygo County Parks Ordinance #01/2020 Section 18 b&c without providing me due process.

2. Chris Wren - Newaygo County Administrator

Chris Wren is the Newaygo County Administrator. In that position, he is acting under color of state and/or local law that enables him to enforce the rules of Newaygo County Parks. Chris Wren upheld my ban from Newaygo County Parks under Newaygo County Parks Ordinance #01/2020 Section 18 b&c without providing me due process. He told me over the phone to sue him to enforce my rights.

3. Sgt Freriks- Newyago County Sheriff Dept

Sergeant Freriks is the police officer who gave my personal contact information to Nick Smith without my consent or authorization. He is a police officer who was acting under color of state and/or local law when this occurred.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

see attached

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

The Dragon Trail, Sandp beach Park, Bls Prairie Twp, Newaygo County

- B. What date and approximate time did the events giving rise to your claim(s) occur?

4pm
August 5th, 10am
August 8th 2022

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

see Attached

III. Statement of Claim

C. On Friday August 5th 2022, I was riding my bicycle on the Dragon Trail at Newaygo County parks when I came around a corner and encountered a rider on an electric motorcycle who was unable to get his motorcycle under control and both of us were forced to swerve off the trail and fall over. Upon standing up I saw that the other rider was using an unauthorized motorized vehicle on the trail. I informed him that motorcycles are not allowed on the trail. He stated that he did not believe that it damaged the trail. Electronic motorcycles are clearly banned from the trail and there are signs at every trail junction stating as much. I told him that motorcycles are banned and it was not the appropriate time and place to argue the merits of their legality. I said I would be willing to show him the posted signs where it clearly says Non Motorized Use only. The rider stated it does not matter what I say, or the signs, and that he would continue to ride the motorcycle on the trail. The rider then took off down the trail. I have a video of this conversation if the Court would like to view it.

I then continued my ride on my bicycle from the middle of the woods back towards my start point near the Hardy Dam. Upon reaching the Sandy Beach park road crossing several minutes later, I encountered the motorcycle rider again who stated, "Where are you going, the police are on their way." Sergeant Freriks of the Newaygo County Sheriff Dept and another deputy arrived and got out of their patrol vehicles. I told Sgt Freriks that the rider was riding a motorcycle on the trail in clear violation of posted park rules and he said he would not be enforcing anything and I was free to go. I was not detained or asked for my personal information at any time.

Approximately 1 hour later I received a call regarding my alleged conduct on Newaygo County Park property. I was informed by a man who identified himself as Nick Smith, Director of Parks and Recreation for Newaygo County, that based on his conversation with a sheriff deputy that I was being "trespassed from Newaygo County parks". When I asked for an opportunity to be heard he told me, "If I do not like it take him to court" and ended the call.

Upon completion of that call I called the Newaygo County Sheriff Dept on the non-emergency line and asked to speak to Sgt Freriks. I was connected to Sgt Freriks and asked him how Nick Smith got my personal information when I was not required to, and did not, provide it at the park. He stated he got my personal information from a previous unrelated police contact where I was filing a PPO on my neighbor, and provided it to Nick Smith unsolicited. I asked him if he had a police report or any record of an investigation of my alleged conduct and he stated there was no police report or record of investigation available because I was not accused of breaking any laws. He stated that if I wanted to know what the accuser said or obtain access to the conversation with Nick Smith I could FOIA it under the FOIA Act. We then ended the call.

I then emailed Nick Smith, Director of Parks and Rec, asking him to receive an opportunity to be heard, records regarding my alleged conduct, and an impartial tribunal. I received no response.

On Monday, August 8th, 2022, I called the office of Nick Smith, Parks and Rec Director, to request an opportunity to be heard and an impartial tribunal under procedural due process. I was told by Connie the secretary that I must contact Human Resources for that.

I then called Newaygo County Human Resources and asked for a meeting with Nick Smith, Parks and Rec Director, under due process. I was put on hold briefly and then a man who identified himself as Christopher Wren, Newaygo County Administrator, came on the phone and told me that none of his employees would meet with me, that I would not receive due process because it was county property and not a court of law, and that if I didn't like it, to sue him. He then hung up.

On Tuesday, August 9th, I received a letter from Newaygo County Parks and Rec stating that due to my "actions" on August 5th, 2022, I was permanently banned from all Newaygo County Parks and Rec property and trails effective immediately. The letter states that if I enter Newaygo County Parks and Rec property I will be arrested and prosecuted for trespassing. The letter states that this decision was made due to me violating Newaygo County Parks Ordinance #01/2020 Section 18 b&c. I was not offered any opportunity to be heard regarding the alleged interactions and events that led to this decision, despite contacting multiple officials to ask for it multiple times. A copy of the letter is attached.

I am filing this claim based on these facts.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See attached

V. Relief

I am asking the Court to (1) issue an injunction prohibiting Defendants Smith and Wren from enforcing the terms of the Letter against me until I have received due process and (2) order Defendants Smith and Wren to provide me with due process regarding my access to Newaygo County parks.

I am also asking the Court to determine, through the litigation process and/or a jury trial, whether Newaygo County Parks Ordinance #01/2020 Section 18 (b) and (c) is unconstitutional. If it is found to be unconstitutional then I want the Ordinance changed and the posted signs updated accordingly.

Lastly, I am asking the Court to order the Newaygo County Sheriff Department to formally investigate and review Defendant Freriks' unlawful disclosure of my personal information, and to take appropriate disciplinary action if the disclosure is found to be in violation of applicable laws and/or Sheriff Department policies.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 8-16-2022

Signature of Plaintiff

Printed Name of Plaintiff

hu mp
Lane Myers

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address